

Serial No.: 10/071,026  
Art Unit: 2612**REMARKS**

This is a full and timely response to the outstanding final Office Action mailed December 29, 2005. Reconsideration and allowance of the application and presently pending claims 2-12 and 14-34 are respectfully requested.

**I. Response to Rejection of Claims Under 35 U.S.C. §102(a)**

In the Office Action, claims 25-29 and 35 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by *Melen* (U.S. Patent No. 6,320,979 B1). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

**a. Claim 25**

As provided in independent claim 25, Applicants claim:

An image processing system, comprising:  
an image storage device;  
at least two similar images contained in the image storage device;  
a processor coupled to the image storage device;  
*a code segment for processing the at least two similar images, where the at least two similar images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images, the at least one characteristic including at least one of lens tilt and lens shift characteristics;* and  
an output element for rendering the new image.

(Emphasis added).

Applicants respectfully submit that independent claim 25 is allowable for at least the reason that *Melen* does not disclose at least the element of "a code segment for processing the at least two similar images, where the at least two similar images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images, the at least one characteristic including at least one of lens tilt and lens shift characteristics," as recited and emphasized above in claim 25.

The Office Action asserts that *Melen* discloses "lens shift characteristics" since "the focus is being performed by shifting the lens shown in figs. 3a: 100 and 3b: 100." However, this interpretation of a lens shift characteristic is not consistent with how the term is used in the specification or with the term's ordinary meaning within the art. For example, the

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specification states that the "terms 'tilt' and 'shift' refer to movement of the lens of a conventional camera with respect to the image plane." See pages 19-20, lines 24-18. Likewise, a common Internet encyclopedia defines a lens shift as "moving the [front] standard [of a camera] left or right in relation to the film plane." See [http://en.wikipedia.org/wiki/View\\_camera#Shift](http://en.wikipedia.org/wiki/View_camera#Shift). As such, Applicants submit that a lens shift characteristic as described in the claim is not disclosed by *Melen*.

Therefore, *Melen* fails to disclose the feature of a "a new image having at least one characteristic different from corresponding characteristics of the at least two images, the at least one characteristic including at least one of lens tilt and lens shift characteristics," as recited in claim 25. Therefore, *Melen* fails to anticipate claim 25, and the rejection should be withdrawn for at least this reason.

b. Claims 26-29 and 32

Because independent claim 25 is allowable over the cited art of record, dependent claims 26-29 and 32 (which depend from independent claim 25) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 25.

Additionally and notwithstanding the foregoing reasons for allowability of claims 26-29 and 32, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 26-29 and 32 should be withdrawn.

2. Response to Rejection of Claims Under 35 U.S.C. §103(a)

In the Office Action, claims 2, 7, 8, 14, 19, and 20 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* (U.S. Patent No. 6,525,761 B2) in further view of *Seki* (U.S. Patent No. 6,320,979 B1). Claims 3-6, 9-10, 15-18, and 21-22 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Fredlund* (U.S. Patent Publication No. 2003/0128287). Claims 11 and 23 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Ockman* (U.S. Patent No. 6,816,627 B2). Claims 12 and 24 stand rejected under 35 U.S.C. §103(a) as

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allegedly being unpatentable by *Melen* in view of *Sato* in further view of *Seki* in further view of *Cesana* (U.S. Patent No. 6,466,220 B1). Claim 30 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Takahashi* (U.S. Patent Application Publication No. 2002/0071044 A1). Claim 31 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Brooksby* (U.S. Patent Application Publication No. 2003/0117412 A1). Claims 33 and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by *Melen* in view of *Ockman* (U.S. Patent No. 6,816,627 B2). It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 7

As provided in independent claim 7, Applicants claim:

A digital image capture and processing system comprising:  
a lens coupled to a lens control element;  
an image sensor configured to capture images from the lens;  
*a memory element and a processor coupled to the lens control element, the memory element including image capture software, where the image capture software cause the lens and the image sensor to capture at least two images, each of the at least two images captured using a varying parameter and stored as a single file, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images; and*  
a depth of field indicator assigned to each of the at least two images, where the depth of field indicator allows a user to determine a depth of field for each of the at least two images.

(Emphasis added).

Applicants respectfully submit that independent claim 7 is allowable for at least the reason that *Melen* in view of *Sato* in view of *Seki* does not disclose at least "a memory element and a processor coupled to the lens control element, the memory element including image capture software, where the image capture software cause the lens and the image sensor to capture at least two images, each of the at least two images captured using a varying parameter and stored as a single file, where the at least two images are combined to form a

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new image having at least one characteristic different from corresponding characteristics of the at least two images," as recited and emphasized above in claim 7.

In expressing the rejection, the Office Action states that *Melen* does not disclose "the at least two image captured using a varying parameter are stored as a single file and a depth of field indicator assigned to each of the at least two images, where the depth of field indicator allows a user to determine a depth of field for each of the at least two images." Office Action, pages 5-6. Further, the Office Actions states that *Sato* teaches this feature. Applicants disagree.

For example, *Sato* appears to teach at most a system for performing remote camera control. In particular, *Sato* teaches that multiple image data is combined sequentially to form single image data. "Note that in this case, the plurality of image data are not combined, but sequentially transferred." Col. 9, lines 59-60. Therefore, *Sato* fails to teach or suggest "each of the at least two images captured using a varying parameter and stored as a single file, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images," as recited in the claim.

Since *Seki* fails to cure the deficiencies of the *Sato* and *Melen* references, a *prima facie* case establishing an obviousness rejection by the proposed combination of *Melen* in view of *Sato* in further view of *Seki* has not been made. Therefore, the rejection of claim 7 should be withdrawn.

b. Claims 2-6 and 8-12

Because independent claim 7 is allowable over the cited art of record, as previously discussed, claims 2-6 and 8-12 (which depends from independent claim 7) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 7 and the cited references of *Fredlund*, *Ockman*, and *Cesana* fail to remedy the deficiencies of the *Melen*, *Sato*, and *Seki* references.

Additionally and notwithstanding the foregoing reasons for allowability of claims 2-6 and 8-12, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 2-6 and 8-12 should be withdrawn.

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For example, claim 8 recites "wherein the user interface includes a depth of field adjustment that allows a user to select the depth of field of the new image from the depth of field of each of the at least two images" which is not taught or suggested by the cited art. To illustrate, *Seki* appears to teach at most that a "user can confirm depth of field in the photographic frame before taking a picture." See para. 0035 (Emphasis added). Accordingly, this fails to disclose "wherein the user interface includes a depth of field adjustment that allows a user to select the depth of field of the new image from the depth of field of each of the at least two images." For at least this reason, claim 8 should be allowed.

c. Claim 19

As provided in independent claim 19, Applicants claim:

A method for operating a digital image capture and processing device, the method comprising the steps of:

coupling a lens to a lens control element;  
coupling an image sensor to the lens;

*capturing at least two images, each of the at least two images captured using a varying parameter, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images;*

storing the at least two images as a single file;  
assigning a depth of field indicator to each of the at least two images;

and

determining a depth of field for each of the at least two images.

(Emphasis added).

Applicants respectfully submit that independent claim 19 is allowable for at least the reason that *Melen* in view of *Sato* in view of *Seki* does not disclose at least "capturing at least two images, each of the at least two images captured using a varying parameter, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images," as recited and emphasized above in claim 19.

In expressing the rejection, the Office Action states that *Melen* does not disclose "storing the at least two images as a single file; assigning a depth of field indicator to each of the at least two images; and determining a depth of field for each of the at least two images." Office Action, page 8. Further, the Office Actions states that *Sato* teaches this feature. Applicants disagree.

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For example, *Sato* appears to teach at most a system for performing remote camera control. In particular, *Sato* teaches that multiple image data is combined sequentially to form single image data. "Note that in this case, the plurality of image data are not combined, but sequentially transferred." Col. 9, lines 59-60. Therefore, *Sato* fails to teach or suggest "capturing at least two images, each of the at least two images captured using a varying parameter, where the at least two images are combined to form a new image having at least one characteristic different from corresponding characteristics of the at least two images," as recited in the claim.

Since *Seki* fails to cure the deficiencies of the *Sato* and *Melen* references, a *prima facie* case establishing an obviousness rejection by the proposed combination of *Melen* in view of *Sato* in further view of *Seki* has not been made. Therefore, the rejection of claim 19 should be withdrawn.

d. Claims 14-18 and 20-24

Because independent claim 19 is allowable over the cited art of record, as previously discussed, claims 14-18 and 20-24 (which depends from independent claim 19) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and steps of independent claim 19 and the cited references of *Fredlund*, *Ockman*, and *Cesana* fail to remedy the deficiencies of the *Melen*, *Sato*, and *Seki* references.

Additionally and notwithstanding the foregoing reasons for allowability of claims 14-18 and 20-24, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the references of record. For at least these reasons, the rejection of claims 14-18 and 20-24 should be withdrawn.

For example, claim 20 recites the step of "using a depth of field adjustment to select the depth of field of the new image from the depth of field of each of the at least two images" which is not taught or suggested by the cited art. To illustrate, *Seki* appears to teach at most that a "user can confirm depth of field in the photographic frame before taking a picture." See para. 0035 (Emphasis added). Accordingly, this fails to disclose "using a depth of field adjustment to select the depth of field of the new image from the depth of field of each of the at least two images." For at least this reason, claim 20 should be allowed.

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e. Claims 30-31 and 33-34

Because independent claim 25 is allowable over the cited art of record, as previously discussed, claims 30-31 and 33-34 (which depend from independent claim 25) are allowable as a matter of law for at least the reason that the dependent claims contain all the features and elements of independent claim 25 and the cited references of *Takahashi*, *Brooksby*, and *Ockman* fail to remedy the deficiencies of the *Melen* reference.

***CONCLUSION***

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

  
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